

CONDITION FOR APPROVAL FORM
(TO ACCOMPANY LEGISLATION)

COMMITTEE:

Transportation
~~Finance~~ ~~Health~~

DATE: 11/9/9

ORDINANCE # _____

RESOLUTION #

09-R-1809

REQUESTED BY: Committee

DIRECTED TO: LAW Dept. (Tetrick)

NATURE OF CONDITION FOR APPROVAL:

Amendment to ensure Council is notified
if changes are forthcoming

WHEN IS THIS INFORMATION DUE, AND TO WHOM?

Prior to 11/16/9 Council meeting

WILL THIS RESULT IN AN AMENDMENT TO THE LEGISLATION?

YES ()

NO ()

WILL THIS RESULT IN A SUBSTITUTE TO THE LEGISLATION?

YES (☒)

NO ()

HAS THIS INFORMATION BEEN RECEIVED? YES () NO ()

DATE OF RECEIPT: _____

A RESOLUTION

**BY: COUNCIL MEMBERS C.T. MARTIN AND CLAIR MULLER
AS SUBSTITUTED**

BY: TRANSPORTATION COMMITTEE

**A SUBSTITUTE RESOLUTION AUTHORIZING THE MAYOR TO
EXECUTE AN AGREEMENT TO AMEND CENTRAL PASSENGER
TERMINAL COMPLEX LEASE AGREEMENTS (CPTC LEASES),
AIRPORT USE AGREEMENTS (AUA) AND CERTAIN OTHER
SPACE USE AGREEMENTS WITH DELTA AIR LINES, INC.
(DELTA) AND NORTHWEST AIRLINES, INC. (NORTHWEST);
AND FOR OTHER PURPOSES.**

WHEREAS, the City owns and operates the Hartsfield-Jackson Atlanta International Airport ("Airport"), located in the Counties of Fulton and Clayton, Georgia, on which there exists certain improvements, including terminal buildings and concourse buildings and related facilities for the use of airlines engaged in the transportation of persons and property by scheduled and unscheduled aircraft service, which buildings and facilities are described in the CPTC Lease as the Central Passenger Terminal Complex ("CPTC"); and

WHEREAS, the City and Delta, and the City and Northwest are parties to separate Agreements and Leases of Premises (CPTC Leases), as heretofore amended covering the occupancy and use by the Airlines of certain premises and facilities in the CPTC; and

WHEREAS, the the City and Delta, and the City and Northwest as heretofore amended are parties to separate Agreement (AUA) for the use of the Airport.

WHEREAS, the City and Delta, and the City and Northwest are parties to certain other agreements with respect to facilities at the Airport, and to certain disputes regarding the CPTC Leases and AUAs, and other agreements.

WHEREAS, the City and Delta, and the City and Northwest, desire to amend their respective Airport Use Agreements and the CPTC Leases.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, that the Mayor be and hereby is authorized to execute on behalf of the City of Atlanta Agreement to Amend Central Passenger Terminal Complex Lease Agreements, Airport Use Agreements and Certain Other Space Use Agreements With Delta Air Lines, Inc. And Northwest Airlines, Inc., substantially in the form attached as Exhibit A.

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare for execution by the Mayor a final version of an Agreement to Amend Central Passenger Terminal Complex Lease Agreements, Airport Use Agreements and Certain Other Space Use Agreements With Delta Air Lines, Inc. And Northwest Airlines, Inc., and other appropriate documents, substantially in the form attached as Exhibit A.

BE IT FINALLY RESOLVED, that the agreements authorized under this Resolution will not become binding upon the City and the City will incur no obligation or liability under it until it has been executed by Delta, Northwest and the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form and delivered to Delta and Northwest.

**AGREEMENT TO AMEND AND EXTEND CPTC LEASES, USE AGREEMENTS AND
CERTAIN OTHER SPACE USE AGREEMENTS
CITY 10/13/09 P.M. REVISIONS TO CITY 10/13/09 A.M. DRAFT**

This Agreement (the "Agreement") to Amend and Extend the CPTC Leases (as defined below) and the Airport Use Agreements (as defined below) between Delta Air Lines, Inc. ("Delta") and Northwest Airlines, Inc. ("Northwest" and, together with Delta, "DAL"), each as one party and the City of Atlanta, Georgia (the "City") as the other party, and certain related matters, is made by and among Delta, Northwest and the City as of October ____, 2009.

WHEREAS, the City and Delta entered into an Agreement and Lease, dated March 22, 1977, for the lease of the Central Passenger Terminal Complex at the Hartsfield Atlanta International Airport, and various amendments approved by the City Council and executed by the parties (collectively the "Delta CPTC Lease"); and

WHEREAS, the City and Delta entered into an Airport Use Agreement, dated February 3, 1967, and various amendments approved by the City Council and executed by the parties (collectively the "Delta Use Agreement"); and

WHEREAS, the City and Northwest, a wholly owned Delta subsidiary, are parties to a CPTC Lease and various amendments thereto, which CPTC Lease was originally between the City and Southern Airlines, Inc. and which Northwest eventually acquired in connection with a merger with another airline (collectively the "Northwest CPTC Lease" and, together with the Delta CPTC Lease, the "CPTC Leases"); and

WHEREAS, the City and Northwest are parties to an Airport Use Agreement and various amendments thereto, which Airport Use Agreement similarly was originally between the City and Southern Airlines, Inc. and which Northwest eventually acquired in connection with a merger with another airline (collectively the "Northwest Use Agreement" and, together with the Delta Use Agreement, the "Use Agreements"); and

WHEREAS, the CPTC Leases and the Use Agreements expire on September 20, 2010; and

WHEREAS, the City and Delta, and the City and Northwest, desire to extend the term of the CPTC Leases and Use Agreements; and

WHEREAS, the City and Delta, and the City and Northwest, desire to amend certain terms and conditions of the CPTC Leases and the Use Agreements; and

WHEREAS, the parties also desire to address certain other matters, including agreements and permits as specified in this Agreement providing for use of premises at the CPTC by Delta, Northwest and Atlantic Southeast Airlines, Inc. ("ASA").

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other valuable consideration, the receipt of which is hereby acknowledged, the parties hereby covenant and agree as follows:

ARTICLE I

GENERAL OBLIGATIONS

Section 1.1. Amendments to CPTC Lease and Use Agreements. The City and DAL hereby agree to amend and extend their respective CPTC Leases and Use Agreements in accordance with the terms and conditions of this Agreement.

Section 1.2. Prior Majority-in-Interest Approvals; Future Conflicts of Interests.

- (a) All airline Majority-in-Interest approvals previously granted under the CPTC Leases and Use Agreements shall continue to be valid and in full force and effect during the Extension Period, except to the extent (i) subsequently modified in writing or (ii) inconsistent with the provisions of this Agreement.
- (b) Reference is hereby made to that certain Majority-in-Interest approval received by the City in connection with a Master Plan submitted by the City to the Signatory Airlines in 1999 (the "1999 MII Approval") through a certain voting ballot and attachments (the "1999 Voting Ballot"). The parties recognize that as part of the 1999 MII approval process, the Signatory Airlines approved an implementation process (the "1999 Implementation Process") set forth in an attachment to the 1999 Voting Ballot titled "Attachment C: Review and Implementation Process for MII Approved Projects" pursuant to which an Executive Committee (consisting of the DOA General Manager and the Chairman of an Airline Steering Committee) was given the authority to make certain binding decisions on the City and the Signatory Airlines. The parties hereby further recognize that the Executive Committee has met and made numerous decisions pursuant to the 1999 Implementation Process that are binding on the parties. The parties hereby confirm and ratify that the actions taken by the Executive Committee pursuant to the 1999 Implementation Process are binding on the City and the Signatory Airlines to the extent approved in documents executed by the Executive Committee representatives (identified as such in the documents) and have not been modified, superseded or repealed by further Executive Committee action, in documents executed by the Executive Committee representative (identified as such in the documents), or MII approvals or any applicable agreement. The parties hereby represent and warrant to each other that they do not know of any actions by the Executive Committee that are beyond the authority granted to the Executive Committee.
- (c) The 1999 Implementation Process shall continue to be valid and effective during the Extension Period.
- (d) In the event that Majority-in-Interest approval is required of a contract subject to competing bids, and a bid is submitted by an entity in which Delta or Northwest has a material financial interest, Delta and Northwest, shall abstain from participation in the Majority-in-Interest approval relating to such contract until all other airlines have had the opportunity to submit their ballots (the "Disinterested

Airlines”). Once the Disinterested Airlines have submitted their ballots, Delta and Northwest shall be deemed to have cast their respective ballots in the same manner as the majority in number of the Disinterested Airlines. This same requirement shall apply to each airline having a Majority in-Interest vote with respect to a bid submitted by an entity in which such airline has a material financial interest. This voting restriction shall not apply with respect to any bid or proposal by the Atlanta Airlines Terminal Corporation (“AATC”) or any multi-airline consortium or entity where each airline has an equal vote if all airlines entitled to a Majority-in-Interest vote shall each waive in writing their approval rights.

Section 1.3. Atrium Concession Dispute; Concourse T Settlement Agreement. The City and DAL are parties to a dispute (the “Dispute”) between the City and the CPTC Lease Contracting Airlines over whether and to what extent the Contracting Airlines are entitled to a share of concession revenues generated by concessions in the atrium area and obligated for a portion of the costs and expenses for such atrium area, which is located between the North and South Terminal Buildings (the “Atrium Area”). The City and DAL agree to settle and resolve the Dispute as between themselves on the following basis:

- (a) The City and DAL agree for purposes of this settlement that the Contracting Airlines’ share of Atrium Area past concession revenues under the CPTC Lease is deemed to be \$5.0 million. The City shall pay DAL its allocable share of such \$5.0 million as determined using DAL’s combined average concession revenue credit percentage for the last eight (8) calendar years. Such payment will be made to on or about sixty (60) days after Closing.
- (b) The City and DAL agree for purposes of this settlement that the City and DAL hereby release and forever discharge each other of and from any and all claims of any kind or nature whatsoever arising under the Dispute, whether known or unknown, suspected or unsuspected, which the City and DAL ever had, now have or may have in the future resulting from, arising out of or in any way connected to Dispute, including any claims for costs, expenses or attorneys’ fees in connection with the Dispute.
- (c) From September 21, 2010, forward, certain space in the Atrium Area as shown in Attachment 6 will be added to the CPTC Lease as Joint Leased Premises. Accordingly, DAL thereafter shall bear their proportionate share of imputed annual debt service requirement of \$1,310,026.65, subject to verification, and their proportionate share of operating and maintenance (“O&M”) costs associated with the Joint Leased Premises commencing on the date of payment of the \$5.0 million as provided in subsection 1.3(a) above. DAL shall also be entitled to their proportionate share of concession credits as provided for elsewhere in the CPTC Lease.
- (d) The provisions of the Settlement Agreement by and among the City of Atlanta, American Airlines, Inc. and Delta Air Lines, Inc. dated August 1, 1997 (“Settlement Agreement”) requiring and related to Delta’s use of its Concourse T

gates for origin and destination ("O&D") service shall no longer be effective after the Closing of this Agreement. Notwithstanding any provision in the CPTC Lease, until DBO of the MHJIT international departures may be operated from Concourse T, subject to all necessary federal governmental approvals. The City hereby releases and forever discharges Delta of and from any and all claims of any kind or nature whatsoever arising from such uses by Delta, whether known or unknown, suspected or unsuspected, which the City ever had, now has, or may have in the future resulting from, arising out of or in any way connected to such uses by Delta, including any claims for costs, expenses or attorneys' fees in connection therewith.

- (e) The above settlement shall not affect the rights or claims of the City and the other Contracting Airlines with respect to such Dispute.

Section 1.4. Submission and Review by FAA; Resolution of FAA Objections. Unless the parties otherwise agree, upon execution of this Agreement, the parties agree to promptly and jointly present the Agreement to the FAA and to seek in good faith the FAA's confirmation in advance of September 20, 2010, that the Agreement complies with applicable legal and regulatory requirements. If the FAA provides the City with written notice that certain provisions of the Agreement violate federal law or regulations or will cause the denial or withdrawal of federal funding, the City and Delta shall immediately meet and negotiate in good faith to attempt to resolve such objections in a manner that minimizes the adverse effect on the parties' rights and obligations under this Agreement and the underlying CPTC Leases and Use Agreements. In the event the City and Delta cannot agree on modifications of this Agreement which resolve such FAA objections within sixty (60) days after the receipt of written notice of such objections from the FAA, any party shall have the right to petition the United States District Court for the Northern District of Georgia (or if said court does not have or exercise jurisdiction thereover, then any other court of competent jurisdiction) seeking equitable reformation of this Agreement to most nearly achieve the intent of the parties with respect to this Agreement in a manner that resolves such FAA objections in a manner that minimizes the above-referenced adverse effect. Any party may elect to challenge in any administrative or judicial proceeding any such potentially adverse action, ruling or objection of the FAA.

Section 1.5. Other Airlines. Except as provided in this Agreement, the City may enter into other arrangements or agreements with other Signatory and non-Signatory Airlines as are mutually agreed by the City and such airline or airlines. The City shall offer Atlantic Southeast Airlines, Inc. ("ASA"), as a Delta connection carrier, an extension of its Airport Use Agreement and CPTC Lease on substantially similar terms as this Agreement. Nothing in this Agreement shall limit DAL's rights under Section 9.35 of the CPTC Leases.

Section 1.6. Dispute Resolution. Except in respect to proceedings in unlawful detainer, in the event of any dispute, claim or controversy arising out of or relating to this Agreement (references in this Section to "Agreement" are deemed to also include the underlying CPTC Leases and Use Agreements) or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this commitment to arbitrate, the parties shall use their best efforts to settle the dispute by negotiation. If they do not reach a resolution within 60 days of written notice by either party of the existence of a dispute, then, upon written notice by either party to the other, all disputes shall be finally settled by arbitration administered by

JAMS pursuant to its Comprehensive Arbitration Rules and Procedures (“JAMS Rules”) before a single arbitrator. In addition to any discovery permitted under the JAMS Rules and agreed to by the parties, each party to the arbitration may serve written interrogatories and requests for production on the other parties and each party may take up to 5 depositions. To the extent the JAMS Rules conflict with anything in this provision, this provision governs. The hearing shall be held within six (6) months of JAMS’ receipt of written notice of a dispute arising under this provision. The parties intend that a decision be issued within 30 days after the close of the hearing. The place of arbitration shall be Atlanta, Georgia. This Agreement is governed by and all disputes arising under or in connection with this Agreement shall be resolved in accordance with the laws of the State of Georgia. The parties acknowledge that this agreement evidences a transaction involving interstate commerce. The United States Arbitration Act shall govern the interpretation, enforcement and proceedings pursuant to this agreement to arbitrate. The federal courts of the Northern District of Georgia shall have exclusive jurisdiction over any proceedings relating to the arbitration, including entry of judgment on the Award; provided, however, if said court does not have or exercise jurisdiction thereover, then relief may be sought in any other court of competent jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from the Northern District of Georgia (or from any other court of competent jurisdiction if the Northern District does not have or exercise jurisdiction).

Section 1.7. Support of Bond Offerings. Delta understands and acknowledges that the City has initiated the processes for the issuance, sale and delivery of approximately \$1.390 billion in bonds for the purpose of refinancing existing airport debt (the “Refunding Bonds”) and for new funding for the completion of MHJIT. In consideration of the extensions to the terms of the CPTC Leases and Use Agreements pursuant to this Agreement and the other matters addressed in this Agreement, Delta agrees to support these transactions and any additional related financing transactions up to \$1.390 billion until the MHJIT Project is complete and ready for beneficial occupancy; provided, however, that in no event shall Delta have any obligation to make any statement or take any action that it is advised by counsel would constitute a violation of applicable laws. Although providing support for such transactions, Delta is not expressing a view on, is not bound by and does not necessarily endorse any statements or assumptions in City offering documents. Delta acknowledges and agrees that the Airport has the right under the CPTC Lease, and intends upon issuance of the Refunding Bonds to include the annual Refunding Bonds debt service amount plus a twenty (20) percent coverage in the Airline rate base.

Section 1.8. Settlement Agreement. The parties acknowledge that the Settlement Agreement amended the Delta CPTC Lease to add Gates D-33, D-35 and D-37 and related support space to Delta’s CPTC Lease Exclusive Leased Premises and such premises shall continue to be governed by the Delta CPTC Lease as amended by this Agreement through the Extension Period.

Section 1.9. Delta HJAIA Space. In addition to Delta’s CPTC Lease, the City and Delta are parties to a lease dated May 29, 2008, pursuant to which Delta leases certain additional premises at the CPTC (the “HJAIA Lease”). The HJAIA Lease is hereby amended to have a thirty (30) day term that automatically renews through September 20, 2017, unless one party gives the other thirty (30) days written notice of termination. The City agrees that it shall not exercise any such termination right unless Delta is in default under the HJAIA Lease after the expiration of any applicable cure right. Notwithstanding the foregoing, if the City recaptures any Gates under Attachment 4 subsection 2(b) hereto, the City may recapture a proportionate amount of space

under the HJAIA Lease upon thirty (30) days written notice and such recaptured space will be deemed not to form a part of the HJAIA Lease. With respect to the HJAIA Lease, the City shall continue to use the same methodology it does now in establishing rentals and other charges.

Section 1.10 Common Use Aircraft Gates with Priority Scheduling and Related Space. The intent of the parties is that through the end of the Extension Period, Delta, Northwest and ASA shall continue to have the right to occupy and use all the Common Use Aircraft Gates with Priority Scheduling and related space that they are assigned pursuant to this Agreement. DAL and ASA will not be discriminated against or be provided lesser rights with respect to Common Use Aircraft Gates with Priority Scheduling than other airlines occupying Common Use Aircraft Gates with Priority Scheduling. If the City allows another airline to occupy premises not currently covered by its CPTC Lease on more favorable terms than apply to Common Use Aircraft Gates with Priority Scheduling, DAL and ASA shall each have the right to elect to convert its Common Use Aircraft Gates with Priority Scheduling to the same type of leasing arrangement. With respect to any Common Use Aircraft Gates with Priority Scheduling used by DAL or ASA, rates and charges shall be determined on the same basis as CPTC Lease Preferential Use Premises.

Section 1.11. ASA CPTC Lease Amendment 10; Delta CPTC Lease Amendment 18; Concourse D Financing; and GAP Projects.

- (a) The City agrees to promptly enter into a CPTC Lease Amendment 10 with ASA in the form attached hereto as Attachment 1 providing for the City's reimbursement to ASA of approximately \$38 million related to Concourse C improvements and the recovery of such costs through rentals in accordance with the terms of such amendment.
- (b) The City agrees to promptly enter into a CPTC Lease Amendment 18 with Delta in the form attached hereto as Attachment 2 providing for the City's reimbursement to Delta of approximately \$3.7 million for South Terminal lobby improvements, \$7 million for bag system electrical improvements and \$350,000 in Concourse D elevator improvements and the recovery of such costs through rentals in accordance with the terms of such amendment.
- (c) The City agrees to finance for DAL and/or ASA, as Delta determines, the amount reasonably required (but not to exceed \$25 million) for upgrades, renovations and installation of 22 loading bridges on Concourse D North to improve customer service and operational capability and generally improve the overall space as has been completed on Concourse C North. Unless the parties otherwise agree, financing terms and cost recovery shall use the same approach as is being used for the Concourse C North renovations the City is financing.
- (d) DAL recognizes that given the age of the CPTC facility, there are systems, terminal finishes and equipment that must be replaced or repaired during the Extension Period. Accordingly, DAL agrees to cause the Chairman of the Airline Steering Committee to approve on even date herewith the GAP Projects in accordance with the terms hereof and their being implemented in accordance with the 1999 Implementation Process. For the avoidance of doubt,

notwithstanding the application of the 1999 MII Implementation Process to the GAP Projects, Delta shall not disapprove any of the GAP Projects. Consistent with the 1999 Implementation Process, Delta retains its rights to oversee each GAP Project's compliance with its respective approved budget plus the Contingency Amount and may raise design or other concerns. For each GAP Project, the costs that will be included in the airlines' respective rentals shall not exceed the respective amount shown for the GAP Project in Attachment 8 plus a share of a five percent (5%) contingency of the aggregate GAP Projects amounts (the "Contingency Amount") if and to the extent used for such project. In the event such amount is exceeded, the City may proceed with the applicable GAP Project, but may not include any amount in excess of the Contingency Amount in the airlines' rentals. The GAP Projects shall be financed by GARBS issued specifically for the GAP Projects for a term of not less than thirty (30) years in the amount not to exceed the amount set forth in Attachment 8, plus the Contingency Amount. Any unused bond amounts shall be used to reduce the amount of such outstanding GARBS. Related rentals for the GAP Projects shall commence as of DBO of the applicable project and will be based on debt service amortization for the balance of the term remaining on related outstanding GARBS.

(e) The City shall include the amounts in section (a) through (c) in its proposed first series of general airport revenue bonds to be issued from the proceeds of first series of general airport revenue bonds issued by the City other than the refunding bonds and MHJIT Project bonds referenced in Section 1.7 hereof. In the event that market conditions do not permit the City to raise sufficient funds on commercially reasonable terms to refund all outstanding commercial paper, the funding of Phase 1 GAP Projects and the amounts in 1.11(a), 1.11(b) and 11.11 (c) notwithstanding the City's reasonable efforts to raise such amounts, then (i) the refunding of outstanding commercial paper and Phase 1 GAP Projects shall have funding priority over refunding of amounts in 1.11(a), 1.11(b) and 11.11(c); provided, however, that with respect to the next series of general airport revenue bonds, the refunding of amounts in 1.11(a), 1.11(b) and 11.11(c) shall have priority over any other use of proceeds until payment in full of such amounts. The City agrees to use reasonable efforts to issue the general airport revenue bonds described in the immediately preceding sentence. Upon receipt of proceeds for the refunding of amounts in 1.11(a), 1.11(b) and 11.11 (c), the City shall make the required reimbursement or funding provided in such amendments within thirty (30) days of receiving the funds as outlined above. Nothing herein shall require the City issue any bonds unless the same are available on commercially reasonable terms.

Section 1.12. Headquarters. Delta hereby covenants and agrees to maintain its Headquarters in the greater Atlanta metropolitan area, subject to and in accordance with the following requirements.

- (a) Nothing herein shall prevent Delta from moving particular categories of employment or the facilities or operations associated therewith from the Atlanta metropolitan area or from reducing or changing its Atlanta metropolitan area employment, operations or facilities.
- (b) DAL shall provide the City written notice of its intent to relocate its Headquarters prior to the execution of any documents that would bind DAL to a relocation, and at least one hundred and eighty (180) days in advance of the date the relocation would take place.

- (c) Delta shall have one hundred and twenty (120) days to cure any such default after written notice thereof from the City.
- (d) As the City's sole remedy for breach of the headquarters covenant, DAL shall forfeit its share of concession credits for the remainder of the Extension Period upon thirty (30) days written notice.
- (e) The Delta headquarters covenant shall apply for the entirety of the Extension Period.
- (f) Delta will report annually to DOA concerning compliance with the Delta Headquarters covenant, which report shall be submitted for a particular calendar year not later than January 31 of the immediately succeeding calendar year.

Section 1.13. Emergency Repairs.

Notwithstanding substantial renovations and improvements to the CPTC, airfield and other areas of the Airport during the last thirty years, Delta and City acknowledge that there may on occasion arise emergencies caused by failures of facilities at the Airport. For purposes of this Section, emergencies are unplanned, atypical events that must be addressed immediately in order to prevent (i) impairment or failure of a facility or system, (ii) a condition or situation that could halt, hamper, interrupt or prevent Airline or aircraft operations, or (iii) a risk to the public safety; in each case described in clauses (i), (ii) and (iii) above which cannot be prevented or managed on a reasonable basis without making immediate temporary or permanent repairs or improvements. Accordingly, Delta agrees to vote in favor of an MII ballot authorizing an increase in the Airline rate base for charges resulting from expenditures for such emergencies as defined above, subject to the following conditions: (a) the total of all emergency expenditures so authorized shall not exceed \$5 million in any fiscal year; (b) any dispute over whether the expenditure is a reasonably required emergency expenditure shall be subject to the arbitration process of this Agreement; (c) any such emergency expense shall be included in the rate base for all airlines (and the City to the extent it pays costs as if it were a Contracting Airline). Emergency expenditures up to \$3 million in any fiscal year will be added in full to the airlines' rate and charges. Expenditures in excess of \$3 million and up to \$5 million will be financed by the City over a ten (10) year period and paid by the Airlines.

ARTICLE II

AMENDMENT 19 TO CPTC LEASE

Section 2.1. Amendment of CPTC Lease. The CPTC Leases are amended as follows:

- (a) Additional Definitions. Title I of the CPTC Lease is amended to add the following definitions which shall also apply to this Agreement:

"City Reserved Space" shall mean the premises designated on exhibits C, D, Y (until DBO of the MHJIT) and YY (effective upon DBO of the MHJIT) for which City will be

obligated only for capital costs and actual heating, air conditioning and lighting expenses until such space is leased as Preferential Use Space to one or more Contracting Airlines, MHJIT Lessee Airlines, or other tenants.

“Common Use” shall mean the use of Common Use Gates or other terminal facilities by an airline for its flights and passengers in common with other airlines in accordance with the provisions of the Common Use Regulations.

“Common Use Aircraft Gates with Priority Scheduling” shall mean any gate, apron area, holdroom, and the associated loading bridge and equipment which Airline shall have the right in advance of all other airlines to use and to schedule its flights as provided in Attachment 4. Wherever in the CPTC Lease the term “Exclusive Use” established an obligation upon or right of Airline or was used for the purpose of calculating the value of the right of, credit to or obligation to be borne by Airline, Common Use Aircraft Gates with Priority Scheduling shall be substituted with respect to such Common Use Aircraft Gates with Priority Scheduling.

“Common Use Regulations” shall mean the Terminal Common Use Regulations adopted by City of Atlanta Ordinance on May 7, 2007, as they may be revised or supplemented from time to time. The provisions of the Common Use Regulations shall apply to Common Use Premises but not to Common Use Aircraft Gates with Priority Scheduling.

“Concourse Buildings” shall mean the buildings so described in Exhibit B, Exhibit D, Exhibit Y (until DBO of the MHJIT) and Exhibit YY (effective upon DBO of the MHJIT).

“Contracting Airline” or “Signatory” Airline shall mean an entity holding a commercial air carrier operating certificate in good standing with the FAA providing service at the Airport and signatory to a current CPTC Lease or Use Agreement, an extension of a CPTC Lease or Use Agreement, a new lease or use agreement with terms and conditions regarding Majority-In-Interest approvals and rates and charges provisions substantially similar to the CPTC Lease and Use Agreements as amended herein and having a term of two (2) years or more or any or all of the foregoing; provided that an airline (i) that is only a signatory to an Use Agreement, extension thereof or new use agreement as set forth in this definition, shall only be consider a "Contracting Airline" or "Signatory Airline" for purposes of such use agreement or extension thereof and (ii)) that is only a signatory to a CPTC Lease, extension thereof or new lease agreement as set forth in this definition, shall only be consider a "Contracting Airline" or "Signatory Airline" for purposes of such use lease agreement or extension thereof .

“GAP Projects” shall mean the airport-wide projects listed in an Exhibit to the Executive Committee resolution of even date hereto, in the not to exceed project amounts specified therein, a copy of which is attached hereto as Attachment 8.

“GARBS” or “Airport Revenue Bonds” shall mean the general airport revenue bonds issued by the City, from time to time, having a lien on the general revenues of the Airport in accordance with the Restated and Amended Master Bond Ordinance authorizing the issuance of City of Atlanta Airport Revenue Bonds adopted by the City Council on March 20, 2000, as subsequently amended and supplemented. Terms defined in the Bond Ordinance shall have those meanings for the purposes of the Agreement.

“Headquarters” means the corporate office which constitutes the principal office of Delta or its successor or any assignee holding substantially all of the assets of Delta from which its business is conducted.

“MHJIT” or the Maynard Holbrook Jackson Jr. International Terminal” shall mean the International Terminal Building, Concourse E and Concourse F, together with the associated Aircraft Parking Area and Ramp Area, all as shown on Attachment 7.

“MHJIT Lessee Airlines” shall mean the airlines who have signed a CPTC Lease or other type of lease with the City for premises in MHJIT.

“MHJIT Project” shall mean the MHJIT construction project.

“MHJIT City Project Costs” shall mean the allocation of MHJIT Project Costs attributable to the MHJIT FIS Facility, and City Reserved Space.

“MHJIT FIS Facility” shall mean with respect to the MHJIT Project

- a) International only Passenger Use Area (IOPUA) so designated on Exhibit YY, and
- b) International/Domestic Passenger Use (IDPUA) so designated on Exhibit YY, and
- c) International/Domestic Aircraft Ramp Area (IDARA) so designated on Exhibit YY, and
- d) International/Domestic Check-in Area (IDCA) so designated on Exhibit YY, and
- e) Domestic Only Baggage Claim Area (DOBCA) so designated on Exhibit YY.

“MHJIT Rentable Space” shall mean the sum of the MHJIT FIS Facility space, the MHJIT Lessee Airlines space, City Reserved Space and the Joint Leased Space all as shown on Exhibit YY.

“MHJIT Users” shall mean all airlines, including but not limited to MHJIT Lessee Airlines, Signatory Airlines, charter operators or itinerant aircraft operators, that may utilize any portion of the MHJIT, as shown on Attachment 7, in any manner and for any act or thing that may be done which is connected with or incidental to the operation of the transportation system of that airline.

“MHJIT FIS Facility Users” shall mean all airlines, including but not limited to MHJIT Lessee Airlines, Contracting Airlines, charter operators or itinerant aircraft operators, that may utilize any portion of the MHJIT FIS Facility, as shown on Exhibit YY, in any manner and for any act or thing that may be done which is connected with or incidental to the operation of the transportation system of that operator.

“Minimum Gate Utilization Standard” shall mean an average of six hundred (600) total departing seats on outbound domestic flights per gate, per day for the previous twelve (12) calendar months.

“Phase 1 GAP Projects” means the GAP projects identified as Phase 1 GAP Projects in Attachment 8.

“Preferential Use Aircraft Gate” shall mean any gate, apron area, holdroom, and the associated loading bridge and equipment which Airline shall have the right of use as provided in Attachment 4. Wherever in the CPTC Lease the term “Exclusive Use” established an obligation upon or right of Airline or was used for the purpose of calculating the value of the right of, credit to or obligation to be borne by Airline, Preferential Use Aircraft Gate shall be substituted with respect to such Preferential Use Aircraft Gate.

“Preferential Use Space” shall mean space in the CPTC for which the Airline has the right of use as provided in Attachment 4. Such areas may include, but shall not be limited to, ticket counter, queuing, skycap podiums, and/or baggage make-up space assignments (excluding airline ticket offices). Wherever in the CPTC Lease the term “Exclusive Use” established an obligation upon or right of Airline or was used for the purpose of calculating the value of the right of, credit to or obligation to be borne by Airline, Preferential Use Space shall be substituted with respect to such Preferential Use Space.

“Priority Scheduling” shall mean the right in advance of all other airlines to use the premises and schedule its flights.

“Terminal Building Area” shall mean the area within the “Terminal Building Area Lease Limits” and as shown on Exhibit B, as amended by this Amendment 19, in which the Aircraft Parking and Ramp Area, the Concourse Buildings, the Landside Terminal Buildings, the Mechanical Buildings, MHJIT FIS Facility, the pedestrian mall (including the elevators and escalators and associated therewith) and other facilities, including the MHJIT Landside Terminal Building and the associated curb space, are, or will be, situated, but such area shall not include the AGTS or the facilities designated for “MARTA” as shown on Exhibits B, C, YY.

- (b) Extension Term. The lease term set forth in Section 2.01 of the CPTC Lease is extended from September 20, 2010, to September 20, 2017 (the “Extension Period”).
- (c) Leased Premises. The Premises leased by DAL and ASA as of the Closing date of this Agreement under the CPTC Leases only are shown on Attachment 3 hereto. Within sixty (60) days of the Closing referenced in Section 4.15 of this Agreement, the parties will in good faith update Exhibit D drawings to the extent necessary to correct any errors and variances in actual dimensions, layout or square footages of space assigned to DAL and ASA under the CPTC Leases and substitute the updated drawings for Exhibit D. On and after September 21, 2010, the Premises under the CPTC Leases shall be shown on Attachment 4 hereto.
- (d) Section 2.09 of the CPTC Lease is amended to read in its entirety as follows:

Section 2.09 – Assignment of Preferential Use Aircraft Gates.

Preferential Use Aircraft Gates, Preferential Use Space, and Common Use Aircraft Gates with Priority Scheduling. For the Extension Period, the parties agree to convert CPTC Lease,

permit or other exclusive use ticketing, baggage handling, airline support and passenger holdroom space into Preferential Use Aircraft Gates, Preferential Use Space or Common Use Aircraft Gates with Priority Scheduling based on the requirements outlined in this Agreement and Attachment 4 hereto and as such premises are shown on Exhibit A of Attachment 4 hereto. During the Extension Period, the City is allowed to permit the use of the Preferential Use Aircraft Gates, related Preferential Use Space and Common Use Aircraft Gates with Priority Scheduling and permit the use of such Preferential Use Aircraft Gates or Common Use Aircraft Gates with Priority Scheduling by a "Requesting Airline" in accordance with the provisions set out in Attachment 4 hereto. In certain circumstances provided for in Attachment 4, the City may also recapture premises and, in addition, provide for accommodation for use by a Requesting Airline, in each case in accordance with the provisions set out in Attachment 4 hereto. Delta, Northwest and ASA shall not be required to provide a Requesting Airline the use of any proprietary systems or information. The City shall not grant any other airline exclusive use rights with respect to any premises without allowing Delta, Northwest and ASA to convert its Preferential Use Aircraft Gates and Preferential Use Space or Common Use Aircraft Gates with Priority Scheduling back into exclusive leased premises. References in the CPTC Lease to exclusive leased premises and leased premises shall apply to Preferential Use Aircraft Gates and Preferential Use Space and Common Use Aircraft Gates with Priority Scheduling, including, without limitation, provisions providing Airline with concession revenue credits.

- (e) A new Section 5.10 is added to the CPTC Lease to read as follows:

Section 5.10-MHJIT Project. The MHJIT Project and, once built, MHJIT will be provided for and operated in accordance with the following requirements:

- (a) The maximum share of the capital cost of the MHJIT Project that shall be funded with general airport revenue bonds ("GARBs") and included in the airlines rates and charges is \$324,500,000 plus capitalized interest and finance costs related to these bonds (the "Cap GARB Amount"). Under no circumstances shall any GARBs be included in the airlines' rate base absent MII consent of the CPTC Contracting Airlines that have elected to extend and modify their respective Airport Use Agreements and CPTC Leases consistent with this Agreement in an amount exceeding the Cap GARB Amount or that would result in debt-service-based airline rates and charges exceeding charges that would be produced by an amortization period remaining on bonds issued for 30-years, plus capitalized interest and finance costs related to these bonds, at an interest rate not to exceed the lesser of the actual annual interest rate or 7% (the "Maximum Annual Amount") plus a coverage factor of twenty percent (20%).
- (b) The City shall use reasonable efforts to limit total MHJIT Project costs to \$1,358,000,000. Not included in this amount are General and Administrative Expenses, Airline Master Planning Team expenses, and capitalized interest costs, which will be allocated as provided in the 1999 MII approval for the International Terminal.

- (c) The MHJIT Project will include an approximately 1,210,000 square foot International Terminal and Concourse F with twelve (12) gates for loading and unloading passenger aircraft, a Federal Inspection Service facility (including associated baggage handling systems), an AGTS extension between the International Terminal and existing Concourse E, and the MHJIT related parking deck, roadways, sitework, and miscellaneous supporting projects and improvements.
- (d) Subject to all requirements hereof, the City's recovery of the airlines' share of MHJIT Project costs shall be calculated using the following methodology for allocating costs and in accordance with Exhibit U-1. The MHJIT will be treated as a single international cost/revenue center. All costs and revenues related to the use of MHJIT will remain within this international cost/revenue center. Inside Concession credits from Concourse F and the International Terminal Building and revenues received from Domestic Use Charges at MHJIT shall be credited against the rates and charges of all international activity at the MHJIT. The final MHJIT GARB funding will be allocated between the MHJIT Terminal and Concourse F pursuant to formulae outlined in Exhibit U-1. The Concourse E and Concourse F costs allocable to the airlines' rate base will then be equalized across all gates and passenger processing facilities for the purpose of establishing international use rates in the MHJIT. Domestic use rates will be set equivalent to rates set for use of common use domestic gates pursuant to the Common Use Regulations with all revenue generated for the use of domestic operations in the MHJIT to be credited against international use gates. Payment of rates and charges shall commence upon the date of beneficial occupancy of the MHJIT Terminal and Concourse F if the MHJIT Project is completed. If the MHJIT is not able to be completed and is abandoned, the parties are not in agreement as to their rights and obligations. In that event, the City, Delta and Northwest retain any and all of their rights, claims and causes of action and other remedies any of them have, whether at law or in equity, relating in any way to the MHJIT or the Airport Use Agreements and CPTC Leases, as currently existing or as may be amended and extended under this Agreement, and the 1999 MII Approval of MHJIT, as implemented.
- (e) Upon completion of the MHJIT, Concourse E shall be accounted for together with the MHJIT and together with MHJIT will form a single international terminal cost/revenue, except that concession credits shall be limited to Inside Concessions.
- (f) All of the provisions of this Paragraph (f) apply only to the MHJIT. With respect to any DAL airport lounge ("Club Space") in the MHJIT Terminal, the City may recover such Club Space provided: (i) it gives DAL one year's written notice of the taking; (ii) at least nine (9) months before the taking, the City provides DAL with substitute comparable Club Space in

the MHJIT Terminal that is reasonably acceptable to DAL; and (iii) the City reimburses DAL for DAL's unamortized cost of investment in the Club Space build out and furnishings, or, at DAL's option, builds out and furnishes at the City's expense the substitute Club Space in a manner that is substantially similar to the building and furnishing of the original Club Space at the time of the City's recovery thereof. All MHJIT ticket counters, check-in kiosks, outbound baggage, gate, Concourse E and Concourse F Federal Inspection Service Facilities (the "FIS"), inbound baggage, baggage claim, ramp tower, and FIDS/BIDS will be operated on a common use basis in the same manner that Concourse E operated prior to this Agreement. The CUTE technology platform will support state-of-the-art airline system requirements as previously specified by the airlines. Additionally, CPTC Lease Contracting Airlines that qualify for Common Use Aircraft Gates with Priority Scheduling at the MHJIT under this Agreement may at their own expense have proprietary systems (including, without limitation, under-wing luggage tracking systems) of their choosing installed at any or all gates designated for use by the City at Concourses E and F and in other areas assigned by the City at the MHJIT; provided that such system(s) do not interfere with the City's CUTE system; provided further that the City shall consult with Delta and Northwest regarding the installation of systems that the City knows may conflict with the Delta or Northwest systems and consider in good faith any reasonable alternatives proposed by Delta or Northwest, or both, that seek to reconcile the interests of Delta, Northwest, the other airlines and the City, provided however, that such consultation shall not prevent the City from installing such systems if the City considers such installation to be justified notwithstanding the potential or actual conflict of systems.

- (g) Upon DBO of the MHJIT Project Terminal and Concourse F, Delta shall have the use of certain MHJIT premises as provided for and shown on Attachment 5 hereto with a thirty (30) day right of termination by any party provided that the City shall reimburse DAL for any unamortized investment actually incurred and reasonably documented by DAL, with the City's termination right under this paragraph being limited to support space. Rental for the use of such premises shall be established by multiplying the total square feet under use by the Debt Service Cost as calculated in Section II.A. of Attachment 5. Attachment 5 is hereby incorporated into this Agreement and the CPTC Leases. Such premises shall be used in the same manner as comparable types of space occupied by Delta on Concourse E prior to the Closing. The City represents to Delta that it is the City's policy to accommodate to the extent feasible the continuity of DAL's occupancy in connection with DAL's scale of its hub operations and the importance of such operations to the Airport.
- (h) Gate assignment protocols will be on a common use basis consistent with those currently followed on Concourse E, but with the largest international carrier serving HJAIA (as defined by number of daily international seat

departures) selecting (within sixty (60) days of the execution of this Agreement) and receiving Scheduling Priority over six (6) of the twelve (12) Concourse F gates. Such preference will be for wide-body flights that are in the top 15% of the airline's international flights ranked by O&D passengers. Scheduling Priority shall mean the right to schedule flights on the gates in advance and to the exclusion of any other carrier for the duration of the Extended Period. In the event the Scheduling Priority airline has not scheduled in advance that priority gate for a Group V aircraft at a time another airline would like to schedule it for a Group V aircraft international operation, the Scheduling Priority airline shall permit such use and scheduling if another Concourse F Group V gate is not available at the time in question and provided another Concourse E or F gate is available for any displaced operation. Once such reassignment occurs, the Scheduling Priority Airline may not displace the other scheduled flight of the airline, which flight would have precedence under the scheduling protocols for the MHJIT unless such airline ceases to schedule the priority gate for a Group V Aircraft.

- (i) Those CPTC Contracting Airlines that are relocating ticketing, outbound baggage, and operations facilities to the MHJIT from the main terminals will be released from their future CPTC Lease obligations for vacated space when and as it is returned to the City. Similarly, airlines operating from Concourse F gates and electing to relocate club rooms and operations facilities from Concourse E will be released from their CPTC Lease obligations for such vacated space when and as returned to the City.
- (j) The City and airlines shall cooperate in good faith to identify and provide funding for MHJIT airline tenant improvements either through MHJIT project costs savings or the issuance of additional GARBs, if available. If such funding is available, the terms thereof shall be incorporated in a further amendment to the respective MHJIT airline's lease.
- (k) The parties agree that the Runway 27R extension is a requirement of the MHJIT Project and it will proceed immediately and be funded first with federal grants and second with PFCs. The goal is to ensure the extension is completed by the opening of MHJIT to facilitate long-range international flying. This Runway extension is also to be made part of the Use Agreement and all runways shall continue to be operated and maintained under the Use Agreement as modified hereby.
- (l) The City's obligations with respect to the MHJIT Project and MHJIT requirements provided for herein shall run concurrently with this Extension Agreement and apply until September 20, 2017.

(f) Replacement of Exhibit U. Exhibit U of the CPTC Lease shall be in effect until DBO of the MHJIT. Upon DBO of the MHJIT, Exhibit U is deleted in its entirety and replaced with Exhibit U1 attached hereto as Attachment 5.

Section 2.2. Continuation of Rentals and Charges. Notwithstanding anything to the contrary in the CPTC Leases, all rates and charges under the CPTC Leases shall continue to be payable during the Extension Period to the City by both Delta and Northwest according to the CPTC Leases, the applicable rates and charges methodology, relevant MII approvals, relevant amortization periods and historical and current practices with respect to setting and adjusting rates and charges. Without limiting the generality of the foregoing, the following provision of Section 5.08 (A) of the CPTC Leases shall have no effect and is hereby deemed deleted from the CPTC Leases: "Accordingly, it is agreed that Facilities Rental payments shall be payable only for a total period of thirty (30) years and such Facilities Rental payments, except for the land rental element provided for in Section 5.04(A)(2) of this Agreement, shall cease after thirty (30) years, notwithstanding the fact that the thirty (30) year lease term will continue for an additional period of time until expiration."

ARTICLE III

AMENDMENT 9 TO USE AGREEMENT

Section 3.1. Amendment of Use Agreements. The Use Agreements are amended as follows: The term of the Use Agreements set forth in Article II of the Use Agreements is extended to September 20, 2017.

Section 3.2. Continuation of Rentals and Charges and Supplementary Payments. Notwithstanding anything to the contrary in the Use Agreements prior to their amendment by this Amendment, all landing fees and other charges under the Use Agreements shall continue during the Extension Period according to the Use Agreements, the applicable rates and charges methodology, relevant MII approvals, relevant amortization periods and historical and current practices with respect to setting and adjusting rates and charges. The parties expressly acknowledge and agree that from and after September 20, 2010, the Supplemental Landing Fee provided for in Amendment 8 to the Use Agreement shall no longer apply. Without limiting the foregoing, the monthly payments under subparagraph (b) (2) of Article VIII of the Use Agreement shall continue to be in full force and effect through the applicable amortization period during the Extension Period.

ARTICLE IV

MISCELLANEOUS

Section 4.1. Governing Law. This Agreement has been made in and shall be construed in accordance with the laws of the State of Georgia.

Section 4.2. Conflicting Provisions; Effect of this Agreement. The parties intend the provisions of this Agreement to be interpreted as consistent with the CPTC Leases and Use Agreements to the extent possible; provided, however, that the provisions of this Agreement shall supersede and control over all conflicting or inconsistent provisions of the CPTC Leases and Use Agreements. Except as otherwise expressly provided in this Agreement, the provisions

of the CPTC Leases and Use Agreements shall continue to be in full force and effect during the Extension Period.

Section 4.3. Complete Agreement; Amendments. This Agreement, together with the CPTC Leases and Use Agreements, as previously amended and supplemented, contains the entire and exclusive agreement of the parties with reference to the matters addressed. This Agreement supersedes all prior commitments, drafts, communications, discussions and understandings, oral or written, with respect hereto. This Agreement may not be modified, amended or otherwise altered except as agreed in writing by the parties.

Section 4.4. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under all applicable laws and regulations. If, however, any provision of this Agreement shall be prohibited by or invalid under any such law or regulation in any jurisdiction, it shall, as to such jurisdiction, be deemed modified to conform to the minimum requirements of such law or regulation, or, if for any reason it is not deemed so modified, it shall be ineffective and invalid only to the extent of such prohibition or invalidity without affecting the remaining provisions of this Agreement, or the validity or effectiveness of such provision in any other jurisdiction.

Section 4.5. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

Section 4.6. Assignment or Transfer. Delta and Northwest shall not sell, assign or transfer this Agreement, together with the CPTC Leases and Use Agreements, as previously amended and supplemented, without the prior written consent of City; provided, however, this Agreement, together with the CPTC Leases and Use Agreements, as previously amended and supplemented, may be assigned by Delta or Northwest without such consent to any successors-in-interest of Delta or Northwest, as the case may be, with or into which Delta or Northwest, as the case may be, may merge or consolidate or which may succeed to the assets of Delta or Northwest, as the case may be, or a major portion thereof related to its air transportation business

Section 4.7. Waiver. No waiver by any party at any time of any of the terms, conditions, covenants, or agreements of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the other. No option, right, power, remedy or privilege of any party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to each party by this Agreement are cumulative and no one of them shall be exclusive of the other or exclusive of any remedies provided by law except as specifically provided herein, and that the exercise of one right, power, option or remedy by any party shall not impair its right to any other right, power, option or remedy, except as specifically provided herein.

Section 4.8. Force Majeure. Neither City nor Delta or Northwest shall be deemed to be in breach of this Agreement, by reason of failure to perform any of its obligations hereunder if, while and to the extent that such failure is due to or results from any force majeure event including strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage or any other circumstances for which it is not responsible and which are not within its control. This provision shall not apply to failure by the Delta or Northwest to pay the rentals and charges provided for herein except in those cases where provision is made elsewhere in this Agreement for the abatement of such rentals and charges under such circumstances; and this provision shall not prevent any party from exercising its rights of termination under the CPTC Leases or Use Agreements. Notwithstanding anything to the contrary herein, with respect to the Minimum Gate Utilization Standard in Attachment 4, a force majeure event shall not affect the Minimum Gate Utilization Standard except with respect to (i) a force majeure event that results in the inability to use any gates until such gates are repaired or replaced (the "Replacement Period") or (ii) strikes, boycotts and labor disputes related directly to the Delta Group not to exceed a period of forty five (45) days following which the Delta Group shall have forty five (45) days to ramp back up operations for the purpose of the Delta Group meeting the Minimum Gate Utilization Standard ("Ramp-up Period"). In determining Minimum Gate Utilization Standard compliance for any year during which force majeure is applicable under the sentence immediately above, the calculation shall exclude (i) Replacement Period, if applicable and (ii) the Ramp-up Period, if applicable, and in each case the seats for those same days, and the calculation shall instead be based on the rest of the one year period prorated to an entire year. A party claiming force majeure must provide written notice to the other parties of the alleged occurrence of force majeure within ten (10) days of the occurrence of the force majeure event setting forth the alleged date of the event.

Section 4.9. No Personal Liability. No elected official, director, officer or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution thereof.

Section 4.10. Relationship Between Parties. City is neither a joint venturer with nor a partner or associate of DAL with respect to any matter provided for in this Agreement. Nothing herein contained shall be construed to create any such relationship between the parties or to subject City to any obligation of DAL whatsoever or to subject DAL to any obligation of City whatsoever except as set forth in this Agreement and the CPTC Lease and Use Agreements as amended.

Section 4.11. Time of Essence. Time is of the essence of this Agreement.

Section 4.12. Commence Negotiations. The parties agree to commence negotiations on another extension or successor agreement at least two years prior to the expiration of this Agreement.

Section 4.13. Headings. The headings contained herein are for convenience in reference and are not intended to define or limit the scope or any provisions of this Agreement.

Section 4.14. Notices. All notices, consents, and approvals to be given hereunder shall be in writing and signed by a duly authorized representative of the party by or on whose behalf they are given and shall be deemed given when deposited in the United States mail by addressee, postage pre-paid, certified or registered, addressed as follows (or to such other address as from time to time may be designated by either party by written notice to the other party).

- A. City:
City of Atlanta
Department of Aviation
P. O. Box 20509
Atlanta, Georgia 30320
Attention: Aviation General Manager
- B. Delta and Northwest:
Delta Air Lines, Inc.
Hartsfield Atlanta International Airport
P.O. Box 20706
Department 877
Atlanta, Georgia 30320
Attention: Vice President — Corporate Real Estate

Section 4.15. Necessary Approvals; Effectiveness. This Agreement requires legislative approval by the City Council and approval by Delta's and Northwest's Boards of Directors. It will not be effective or legally binding until such approvals are granted. Furthermore, this Agreement will not become binding on the City and the City will incur no liability or obligation under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to DAL (the "Closing"); provided further that this Agreement will not become binding on Delta and Northwest, and neither Delta nor Northwest will incur any liability or obligation under it until it has been executed by the Chief Executive Officers of each. Except for Sections 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.11, 1.12, 2.1(c) and all Sections of Article IV which shall be effective upon Closing, all the provisions of this Agreement shall become effective upon September 20, 2010.

Section 4.16. Cross-references; Incorporation of Attachments. Cross-references in this Agreement are to Delta's CPTC Lease and Use Agreement, and to the extent that the numbering of the sections in the Northwest CPTC Lease and Use Agreement are different, the cross-reference in this Agreement shall be deemed to be a cross-reference to the corresponding section of such agreements. All Attachments to this Agreement are hereby incorporated herein and made a part of this Agreement and the underlying CPTC Leases and Use Agreements as appropriate.

IN WITNESS WHEREOF, the parties, acting by and through their duly constituted officers,
have caused this instrument to be executed this ____ day of _____, 2009.

ATTEST: **DELTA AIR LINES, INC. (Seal)**

Title: by _____
Title:

ATTEST: **NORTHWEST AIRLINES, INC. (Seal)**

Title: by _____
Title:

ATTEST: **CITY OF ATLANTA (Seal)**

Municipal Clerk by _____
Mayor

APPROVED AS TO INTENT:

Aviation General Manager

APPROVED AS TO FORM:

RECOMMENDED:

City Attorney

Chief Operating Officer

**LARGE
ATTACHMENT(S)
DOCUMENT(S),
MANNUAL(S)
OR
MAP(S)
NOT COPIED**